

**UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

BRIAN METHE,)	CASE NO. 1:17-CV-749
)	
Plaintiff,)	TIMOTHY S. BLACK
)	
vs.)	<u>ANSWER OF DEFENDANT OOSHIRTS,</u>
)	<u>INC.</u>
AMAZON.COM DEDC, LLC, et al,)	
)	
Defendants.)	JURY DEMAND ENDORSED HEREON
)	

Now comes Defendant, Ooshirts Inc., by and through Counsel, Marshall W. Guerin, and for its Answer to the Complaint hereby alleges and avers as follows:

1. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

2. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

3. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

4. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

5. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

6. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

7. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

8. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

9. Defendant admits the allegations contained in the same numbered paragraph of the Complaint.

10. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

11. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

12. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

13. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

14. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

15. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

16. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

17. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

18. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

19. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

20. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

21. Defendant admits the allegations contained in the same numbered paragraph of the Complaint.

22. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

23. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

24. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

25. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

26. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

27. Defendant is without knowledge or information sufficient to form a belief as to the allegations contained in the same numbered paragraph of the Plaintiff's Complaint and therefore denies those allegations.

28. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

29. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

30. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

31. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

32. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

33. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

34. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

35. Defendant denies the allegations contained in the same numbered paragraph of the Complaint.

First Affirmative Defense

Defendant denies each and every other allegation not specifically admitted hereinabove.

Second Affirmative Defense

The Complaint fails to state a claim upon which relief can be granted pursuant to Rule 12(B)(6) of the Federal Rules of Civil Procedure.

Third Affirmative Defense

There has been a failure to join all the parties necessary for a just adjudication as required by Rules 19 and 19.1 of the Ohio Rules of Civil Procedure.

Fourth Affirmative Defense

The Plaintiff's claims are barred by the doctrine of fair use.

Fifth Affirmative Defense

Plaintiff's claims are bared for a lack of subject matter jurisdiction because he lacks valid copyright registrations for the intellectual property right asserted, or has not properly or timely registered his works.

Sixth Affirmative Defense

Plaintiff's claims are barred by the doctrine of laches.

Seventh Affirmative Defense

Plaintiff's claims are barred by estoppel.

Eighth Affirmative Defense

Plaintiff's claims are barred by the doctrine of unclean hands.

Ninth Affirmative Defense

Plaintiff's claims are barred by waiver.

Tenth Affirmative Defense

Plaintiff's copyrights are invalid and/or unenforceable.

Eleventh Affirmative Defense

Plaintiff's claims are barred under the Digital Millennium Copyright Act, 17 U.S.C. 512.

Twelfth Affirmative Defense

Plaintiff's has implicitly authorized the use of his work.

Thirteenth Affirmative Defense

Plaintiff's claims are barred to the extent he has forfeited or abandoned his intellectual property.

Fourteenth Affirmative Defense

Plaintiff's claims are barred by the doctrine of misuse of copyright.

Fifteenth Affirmative Defense

Plaintiff's claims are barred by Plaintiff's license, consent, and acquiescence to the Defendant's use.

Sixteenth Affirmative Defense

Plaintiff's claims are barred, in whole, or in part because Defendant's conduct was in good faith and with non-willful intent, at all time.

Seventeenth Affirmative Defense

Plaintiff's claims are barred under 17 U.S.C. 109 and the doctrine of exhaustion.

Eighteenth Affirmative Defense

Plaintiff's claims are barred because the alleged infringement was not caused by a volitional act attributable to this Defendant.

Nineteenth Affirmative Defense

Plaintiff's claims are barred because statutory damages sought are unconstitutionally excessive and disproportionate to any actual damages that may have been sustained in violation of the Due Process Clause.

Twentieth Affirmative Defense

Plaintiff's claims are barred to the extent that the Defendant's actions and speech are protected by the First Amendment.

Twenty-First Affirmative Defense

Defendant reserves the right so supplement or amend this answer, including through the addition of further affirmative defenses, based upon they course of discovery and proceedings in this action.

WHEREFORE, Defendant prays that the Complaint be dismissed with prejudice and that the Defendant be allowed to go free henceforth without cost.

Jury Demand

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Defendant hereby demands a trial by jury.

Respectfully submitted,

s/Marshall W. Guerin/s

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NOTICE

All attorneys and staff of the Law Offices of Craig S. Cobb are employees of Farmers Insurance Exchange, a Member of the Farmers Insurance Group of Companies, and not a partnership.

CERTIFICATE OF SERVICE

A copy of the foregoing was served this 8th day of January, 2018, via the Court's Electronic Filing System, First-Class United States mail, postage prepaid, and/or electronic mail to the following

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